



**RESTRICTIVE COVENANTS  
FOR  
YORKSHIRE HIGHLANDS**

Declaration of conditions, covenants, restrictions and easements regarding Yorkshire Highlands Subdivision, Village of Yorkville, Racine County, Wisconsin (the "Declaration").

This declaration is made by TNG 27, LLC, hereinafter called "Developer", as owner of certain real property in Racine County, Wisconsin; and

WHEREAS, the Developer holds title to certain real estate located in the Village of Yorkville, Racine County, Wisconsin, (the "Village") described in Exhibit A to this Declaration, which lands have been platted as Yorkshire Highlands Subdivision, said lands being hereinafter referred to as the "Subdivision"; and,

WHEREAS, this Declaration will carry out the aforesaid purposes and will assure each subsequent owner of property in the Subdivision of the continuance of these standards.

NOW, THEREFORE, in consideration of the premises and the mutual promises of the parties to be bound by these restrictive covenants, the Developer hereby imposes upon the lands described in Exhibit A and known as Yorkshire Highlands Subdivision, the conditions, covenants, restrictions and easements hereinafter set forth which shall inure to the benefit of and pass with all said property and each and every parcel thereof, and shall apply to and bind the successors in interest and any owner thereof.

I. GENERAL PURPOSE

The general purpose of this declaration is to help assure that the Subdivision will become and remain an attractive development, to ensure the best use and most appropriate development and improvement of each building site to protect owners of building sites against use of surrounding building sites in such a manner as will detract from the residential value of the property, to guard against the erection on building sites of poorly designed or proportioned structures, to obtain harmonious use of material and color schemes, to insure the highest and best residential development of said property, to encourage and secure the erection of attractive buildings designed and built in accordance with a harmonious theme, to secure the appropriate locations thereof on building sites, to prevent haphazard and inharmonious improvement of building sites; and to secure and maintain proper setbacks from streets.

## II. DEFINITIONS

- A. Conservation Easement (also referred to as Grant of Conservation Easement). Easement attached hereto as Exhibit "B" and incorporated herein by reference to protect environmentally sensitive and agricultural areas located on Outlot 1 of the Plat and pursuant to the Stewardship Plan.
- B. Land Trust. Seno K/RLT Conservancy, Inc., the holder of the Conservation Easement.
- C. Stewardship Plan. The Yorkshire Highlands Native Vegetation Stewardship Plan for the Subdivision prepared by Eco-Resource Consulting, Inc. dated May 2021 and updated August 2021; February 2022 and October 13, 2023, a copy of which is attached hereto as Exhibit "C".
- D. Plat. The recorded final plat of the Subdivision.
- E. Homeowner's Association. The Yorkshire Highlands Homeowner's Association, Inc., a Wisconsin Non-Stock Corporation.
- F. Developer's Agreement. The Agreement between the Village and the Developer for the development of the Subdivision.
- G. Outlot(s). Outlot 1 as identified on the Plat.

## III. TERMINATION

Except as otherwise specifically stated, the restrictions are to run with the land and shall be binding on all parties hereto and all persons claiming under them for a period of twenty-five (25) years from the date they are recorded, at which time, said Conditions, Covenants, Restrictions and easements shall be automatically extended for successive periods of ten (10) years unless the owners of record of three-fourths (3/4) or more of the lots in the Subdivision shall:

A. Execute a written document modifying, amending or rescinding these conditions, covenants, restrictions and easements or any one or more of them in whole or in part; and

B. Record such document in the office of the Register of Deeds of Racine County, Wisconsin.

C. Sections III, XIII, XIV, XX, XXIV, XXV, XXVII, XXVIII, XXIX, XXX of these Restrictive Covenants are to be held in perpetuity and are not subject to termination, rescission, or modification as set forth in Paragraphs III (A) and III (B) above without the express written approval

of the Village of Yorkville and the Land Trust. The Grant of Conservation Easement and Stewardship Plan may only be modified pursuant to the terms of the easement and pertinent statute governing conservation easements.

#### IV. SEVERABILITY

Invalidation of any provision of these restrictions by judgment or other court order shall not in any way affect any of the other provisions which shall remain in full force and effect.

#### V. ARCHITECTURAL CONTROL COMMITTEE

No structure shall be erected, placed, or altered on any lot until the building plans, landscape plans, specifications and plot plan showing the location thereof have been approved in writing as to quality, materials, harmony of external design and colors with the existing and planned structures, and as to location with respect to topography, neighboring homes, setbacks, finished grade elevations, driveways and planning by the Architectural Control Committee. **Such plans and specifications shall be submitted to the Architectural Control Committee for approval before a building permit and/or zoning permit from the Village of Yorkville and/or Racine County is applied for.** *Two* copies of the building plan and two copies of the survey showing the building footprint are to be submitted to the Architectural Control Committee. The Architectural Control Committee may, at its sole discretion, approve, modify, conditionally approve, or deny a house plan submittal. The decision of the Architectural Control Committee shall be final. Upon approval, one copy of the plan and one copy of the survey will be returned to purchaser and one copy will be retained by the Architectural Control Committee. Any lot owner violating any provision within this Section V is subject to the jurisdiction of the Racine County Circuit Court. Any violator of this Section V shall be subject to a permanent and temporary restraining order and that no bond shall need to be filed by the Architectural Control Committee to enforce this Section V.

A. The design layout and exterior appearance of each residence shall be such that, in the opinion of the Architectural Control Committee at the time of approving the building plans, the residence will be of compatible design and quality to existing homes in the Subdivision and will have no substantial adverse effect on the property values in the neighborhood.

B. The approval or disapproval of the Architectural Control Committee as required by these covenants shall be in writing. Should the Architectural Control Committee fail to approve or disapprove such plans and specifications and the location **within thirty (30) days** after submission of the plans to it, then such approval will not be required, but all other conditions and restrictions herein contained shall remain in force, and the related covenants shall have been deemed to have been fully complied with.

C. The initial Architectural Control Committee is composed of Raymond C. Leffler and another party to be named.

D. The address of the Architectural Control Committee is:

8338 Corporate Drive, Suite 300  
Racine, WI 53406

E. Submissions for Architectural Control Committee approvals may be emailed to the Committee at rayleffler@hotmail.com. Emailed submissions must contain a legible copy of the complete building plans, a legible copy of the survey, exterior color selections for all exterior materials. Exterior color selections shall contain color photos of selections along with the color name and manufacturer. Incomplete submissions will be returned to the submitter and will not be considered received until such time as all information required has been received. Confirmation of receipt will be emailed once the Committee determines that all required information has been received.

ANY LOT OWNER WHO CAUSES OR ALLOWS ANY IMPROVEMENTS TO BE CONSTRUCTED, INSTALLED, PLACED OR ALTERED ON THE LOT WITHOUT PRIOR WRITTEN APPROVAL OF THE COMMITTEE MAY BE REQUIRED TO REMOVE SUCH IMPROVEMENT IN ITS ENTIRETY AT THE LOT OWNER'S EXPENSE.

F. The Architectural Control Committee may designate a representative to act for it. In the event of the death or resignation of a member of the Architectural Control Committee, the remaining member(s) shall have full authority to designate a successor. Neither the members of the Architectural Control Committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant.

G. If, at any time, the Architectural Control Committee has ceased to exist as such and has failed to designate a representative to act for it, the owners of a majority of the lots in the Subdivision may elect a successor committee at a meeting of lot owners called by notice in writing, mailed to the last known address of all Subdivision lot owners as shown on the property tax data of the Village of Yorkville. In the absence of such an Architectural Control Committee, the need for the Architectural Control Committee approval is dispensed with.

H. The Architectural Control Committee may grant a special exception to specific restrictions where a literal application would cause undue hardship and where the granting of such special exception would not be incompatible with the basic concept of the Subdivision.

I. This Subdivision is subject to all Village and/or County regulations regarding Conservation Subdivisions, including adherence to the Conservation Easement and Stewardship Plan (referenced elsewhere in these Restrictions). Buyer acknowledges that the Architectural Control Committee cannot grant any exception which would violate these regulations.

## VI. DWELLING QUALITY

The face of every outside wall of any residence, including chimney chases, shall be constructed of materials approved by the Architectural Control Committee. All residences shall have roofs constructed of a minimum of 25 year fiberglass dimensional shingles, cedar shake or masonry material approved by the Architectural Control Committee, with not less than a 6" to 12" (6/12) pitch. All residences shall have a minimum of **50%** brick, stone or other approved masonry product on the front elevation unless brick or stone would be contrary to the design of the home, and shall be approved by the Architectural Control Committee. All residences shall have smart board, hardiplank or similar type siding. Aluminum or vinyl siding is not allowed, however, soffit and fascia may be of aluminum or vinyl. All residences shall have a minimum of two windows, in an acceptable size as determined by the Architectural Control Committee, on every elevation. If windows on the front of the residence contain grids, then all windows on the residence shall contain grids.

Every residence hereafter erected shall have minimum floor areas as follows:

1 Story (Ranch Style)	<b>2100</b> sq. ft. minimum
2 Story (Traditional)	<b>2400</b> sq. ft. minimum
1 ½ Story (Example: Cape Cod)	<b>2300</b> sq. ft. minimum

For purposes of this section "floor area" shall be defined as the area within the exterior wall lines of a building and shall not include floor space below grade at front foundation line, basements, garages, breezeways, and unenclosed porches, attics and other areas not finished or useable as living quarters.

*The above size requirements exceed the minimum square foot requirements by the Village of Yorkville. The more restrictive requirements contained herein shall prevail.*

## VII. BUILDING LOCATION

Subject to approval by the Architectural Control Committee, structures may be located anywhere on a lot, provided such location is consistent with the basic principles of good site interrelationship between the various other nearby structures and provided further that no structure or part thereof shall be erected contrary to the Village of Yorkville ordinances. No structure or part thereof erected upon any **corner lot** in the Subdivision may be erected nearer than fifty (**50**) feet from the lot line adjacent to the street located at the side of such building. The **front yard** building setback line for each lot in the Subdivision shall be **fifty (50)** feet from the front lot line unless written approval is received from the Architectural Control Committee. The **side yard** setback shall not be less than **fifteen (15)** feet on either side and the **rear yard** setback shall not be less than **fifty (50)** feet.

## VIII. GARAGES, DRIVEWAYS, AND LANDSCAPING

A minimum of a two (2) car, but not to exceed four (4) car, garage shall be constructed on a building site and shall be directly attached to the residential structure or attached by a breezeway. Nothing in this section shall be construed to prohibit the construction of an attached garage which is larger than the maximum allowed by this section provided such garage is constructed in conformity with local ordinance. Detached garages of any size are prohibited. See Section XXIV for Accessory or Utility Buildings.

To minimize dust and to enhance the appearance of the Subdivision, the driveway or driveways shall, within one (1) year after issuance of the occupancy permit for a building site, be surfaced with concrete, blacktop, brick or other hard surface material acceptable to the Architectural Control Committee. The plans and specifications for residences submitted to the Architectural Control Committee for approval shall include the specifications for the location and surfacing of the driveways and walkways.

## IX. UTILITIES AND ANTENNAS

All electric lines, telephone lines, television service lines, or any other cable or conduit running from utility service lines or transformers to any residence shall be underground. No exterior antenna, satellite dish receiver, or other similar device or structure for the transmission or reception of electric signals of any nature shall be allowed on any lot within the Subdivision without the approval of the Architectural Control Committee. Any such exterior antenna, satellite dish receiver or similar device shall not exceed 36" in diameter and shall not be visible from the street. There shall be no free-standing tower type antennas allowed in the subdivision.

## X. SOLAR ENERGY

Devices and systems for collection of solar energy are permitted within the Subdivision, provided that the location and screening of any such system are approved by the Architectural Control Committee.

## XI. HEDGES AND FENCES

A. Hedges shall be permitted provided that the same are located as required by these covenants and maintained by the lot owner.

B. Firewood or other materials of a similar nature stored or kept on any lot must be screened from view by means of a fence or wall of sufficient height to conceal the same, but no higher than four (4) feet, by shrubbery of sufficient density to accomplish the same purpose, or other approved screening.

C. No hedge may extend to a point nearer to the street on which the house fronts than the

front foundation line of such house.

D. Perimeter fencing of any lot is prohibited. However, recreational fencing is allowed behind the rear foundation of the home dwelling, but not to exceed the square footage of the dwelling footprint. The Architectural Control Committee approval is required on the type of material used to construct said fencing. **Chain link and galvanized steel fencing is prohibited.**

## XII. PETS

No animals may be kept or maintained upon any lot except dogs, cats, or other usual and ordinary household pets. All lot owners shall abide by the Village of Yorkville Ordinance regarding pet ownership within the Village limits. Separate outbuildings or enclosures may be erected or kept upon a lot for the purpose of housing or restraining any animal or pet provided the location, design, construction and material for such structure is approved by the Architectural Control Committee. **Chain link and galvanized steel dog runs are prohibited.**

## XIII. FILLING BUILDING SITE AND CHANGING CONTOUR

Where fill is necessary on the building site to obtain the proper topography and finished ground elevation, it shall be ground fill, free of waste material, and shall not contain noxious materials which will give off odors of any kind, and all deposited fill materials shall be leveled immediately after completion of the building. Any excess excavation of earth shall be removed from the building site. Grade plans shall be submitted to the Architectural Control Committee for approval before altering the contour of any lot so as to 1) change the pre-existing surface water drainage as affects any adjoining lots, and/or 2) create a slope of more than three (3) horizontal feet to one (1) vertical foot within twenty (20) feet of any lot line. The finished grade of any improved lot in the Subdivision shall comply with the Master Grading Plan on file. Changes to this covenant are only allowed with written Architectural Control Committee approval and shall require the approval of the Village of Yorkville. Prior to the conveyance of lots, the Developer shall cause all grading, excavations, open cuts, side slopes, and other land surface disturbances to be so mulched, seeded, sodded, or otherwise protected so that erosion, siltation, sedimentation, and washing are prevented in accordance with the plans and specifications approved by, and on file with, the Village Engineer. Upon conveyance of individual lots, individual lot owners shall assume the responsibility for maintaining the erosion control measures put in place by the Developer. If individual lot owners fail to maintain said erosion control measures, for all periods of time for which the Developer retains any responsibility to the Village under the Developer's Agreement, the Developer shall have the right to enter upon any lot or common area in the Subdivision for the purpose of restoring the same or providing maintenance pursuant to the Conservation Easement and Stewardship Plan and as required by the Village and Land Trust, and pursuant to the Developer's Agreement. The Developer shall have no liability except as provided for under the Conservation Easement and the Developer's Agreement to any lot owner, or the Homeowner's Association, with respect to work required by the Village of Yorkville and performed under the terms of this paragraph. In the event that restoration or maintenance is required by reason of the act or neglect of any lot owner, or of the Homeowner's



Association, the Developer shall have the right to recover its costs from said owner or the Homeowner's Association. After the Developer's responsibility under the Developer's Agreement has expired, the right to enter upon any lot or common area to restore same, or provide maintenance pursuant to the Conservation Easement and Stewardship Plan and as required by the Village and/or Land Trust, shall transfer to the Homeowner's Association. No sod, gravel, sand, or soil may be removed from any lot except in connection with the construction of a building upon said lot and then only so much as is necessary and essential in the furtherance of such construction and in compliance with all applicable Village and County Ordinances. Under no circumstances shall any of such materials be removed beyond the Subdivision boundaries without the consent of the Architectural Control Committee.

Finished yard grades must be approved by the Village Engineer before construction may commence. The Developer shall collect from each lot purchaser, at the time of closing, a \$375.00 flat fee to be forwarded to the Village Engineer for the purpose of paying for this review. This fee applies only to the sale of the lot from the Developer to the initial purchaser.

#### XIV. SITE MODIFICATION

Portions of the Subdivision are located within wetlands areas and conservation areas as indicated on the Plat. Each lot shall be developed in conformity with all applicable laws and ordinances regarding these environmentally sensitive areas and the Conservation Easement. Any proposed site grade modification must be approved by the Architectural Control Committee. In no case shall any site modification occur on any Outlot unless specifically authorized in the Conservation Easement and Stewardship Plan.

Clear cutting of trees on individual lots is hereby prohibited. Only those trees located within the proposed building pad, and a sufficient area on the lot surrounding said building pad to facilitate construction, shall be permitted to be removed. Any lot owner requesting to remove more trees than necessary for the construction of a residence must submit a written request, along with a site plan indicating the trees to be removed, and a reason for the request, to the Architectural Control Committee. Except for dead or dying trees, no trees may be removed without the express written consent of the Architectural Control Committee. Other than trees allowed to be removed during construction, each lot owner shall take all necessary measures to protect trees from damage during construction.

For clarification purposes, any tree with a trunk diameter of 3" (three inches) 4' (four feet) or more above ground level shall require the approval of the Architectural Control Committee for removal (unless dead or dying as stated above). Approval will not be unnecessarily withheld.

**The restrictions set forth in this Section may not be modified or removed without the prior written approval of both the Village of Yorkville Village Board (upon review and recommendation of the Village of Yorkville Plan Commission).**

**PLEASE SEE SECTION XXVII - EASEMENTS**

**XV. NOXIOUS ACTIVITY**

No noxious, offensive, or dangerous activity of any kind may be conducted upon any lot; nor may any trade, business or profession be carried on, except for those home occupations permitted, allowed, or permitted under the zoning code for the Village of Yorkville; and generally, no activities may be conducted which would constitute a nuisance to other owners of lots within the Subdivision.

**XVI. SIGNS**

No signs of any character, size, or description shall be maintained upon any lot in the Subdivision except signs required by the Village of Yorkville, such as the official address sign, or signs of a size no larger than ten (10) inches by eighteen (18) inches bearing the name, and/or address, of the resident occupying such lot, security service warning signs or residential re-sale "For Sale" signs. The content, size and design of all signs shall be controlled by the Architectural Control Committee. The Developer, its successors and assigns, shall be exempt from these sign restrictions during the entire development period. Larger signs may be used by the Developer or its agents or by a builder to advertise the property during the sale and/or construction period. Further, the Developer, its successors and assigns shall be allowed to erect and maintain signs and markers identifying the Subdivision.

**XVII. SWIMMING POOLS / RECREATIONAL EQUIPMENT**

Swimming pools and spas are allowed with the approval of the Architectural Control Committee and must be constructed in conformity with these restrictions and the ordinances of the Village of Yorkville and Racine County. No portion of a swimming pool or the adjoining enclosed area shall be constructed or maintained nearer to the street line than the rear foundation line of the principal structure. *Above ground pools are prohibited in the Subdivision.*

Recreational equipment (swing sets, trampolines, volley ball nets, jungle gyms, etc.) is allowed within the subdivision provided such equipment is placed in the rear yard of the residence. Recreational equipment is prohibited in side yards.

**XVIII. TREE AND BRUSH REMOVAL**

All trees, brush, stumps, roots, or other similar materials that may be cut or cleared upon any lot shall be removed from the Subdivision, or in the alternate, reduced to firewood within sixty (60) days after such cutting or clearing. When any tree is felled upon any lot, it shall be done in such a manner that no stump or protrusion above the level of the ground remains. In no case shall any removed trees, brush, stumps, roots or other similar materials be placed or dumped upon any Outlot.

**PLEASE SEE SECTION XIV (SITE MODIFICATION) REGARDING TREE**

## REMOVAL.

### XIX. VEHICULAR STORAGE

**No outdoor storage of any commercial vehicle, boat, camper, trailer, snowmobile, recreational vehicle, motorhome, all-terrain vehicle or motorcycle is permitted.** Unless the same is enclosed within a garage, no motor vehicle may be parked, stored or otherwise kept on any lot in the Subdivision other than a car, truck or van which is licensed by the State of Wisconsin as a private passenger vehicle. Outdoor storage of **any** vehicle with advertising of any type (other than car dealer emblems) is prohibited. Any such vehicle must be enclosed within a garage. No driveway apron may be constructed for the storage of any vehicle or trailer.

### XX. LOT AND OUTLOT MAINTENANCE

Each vacant lot in the Subdivision shall be maintained by the owner of such lot so that the same lot shall not become a nuisance. No owner shall allow trash or debris to accumulate on any such vacant lot and the lot owner shall regularly mow the lot and comply with the Village of Yorkville and Racine County ordinances regarding weed control.

Outlot 1 contains an area which has been designated as a "Entrance Sign Easement" area, which is shown on the final Plat for the Subdivision. The Homeowner's Association shall be required to maintain the landscaping within the easement area (for example, cutting the grass and weeding any planting beds). Failure to maintain the landscape area within the Outlot may result in the Land Trust and/or Village of Yorkville maintaining said landscape easement and assessing the individual lot owners for any costs pursuant to the Conservation Easement. Maintenance of the Entry Sign Easement located within Outlot 1 shall be subject to any restrictions contained in the Grant of Conservation Easement and Stewardship Plan.

Outlot and Entry Sign Easement Maintenance. In the event the Developer, its successors and assigns, including the Homeowner's Association, should cease to exist or should fail to fulfill its obligations as stated in these Restrictive Covenants or to pay for the regular maintenance required for its properties within the Subdivision, including pursuant to the Conservation Easement and Stewardship Plan, the Land Trust and/or Village of Yorkville may cause such maintenance to be performed and levy the cost thereof as a special assessment against all of the properties within the Subdivision under the provisions of Section 66.0627 of the Wisconsin Statutes. Similarly, any unpaid balances, together with any penalties and interest thereon, may be collected by the Village of Yorkville as a special assessment against all of the properties in the Subdivision, or the Village of Yorkville may seek a mandatory injunction requiring the Homeowner's Association to levy and collect assessments for such purpose.

**The restrictions set forth in this Section may not be modified or removed without the prior written approval of the Village of Yorkville Village Board (upon review and**

**recommendation of the Village of Yorkville Plan Commission), and the Land Trust .**

#### XXI. COMPLETION OF CONSTRUCTION

The interior and exterior construction (**including landscaping and driveways**) of a residence shall be substantially completed and the residence shall be ready for occupancy within one (1) year after commencement of construction; such time of completion shall be extended to the extent of any delay due to strike, lockouts and acts of God. In its sole discretion, the Architectural Control Committee shall determine 1) when a residence is substantially completed and ready for occupancy, subject to Village of Yorkville and Racine County Ordinances; 2) the extent of the delay due to strike, lockouts and acts of God; and 3) may, for good cause, allow additional time for completion of construction.

#### XXII. TEMPORARY STRUCTURES

No structure of a temporary character, no boat, trailer, truck, basement, tent, shack, garage, barn or other outbuilding shall be used at anytime as residence either temporarily or permanently. **No previously used building shall be moved on to any lot in the Subdivision from another location, this shall include outbuildings of any type.**

#### XXIII. GARBAGE OR REFUSE DISPOSAL

No lot shall be used or maintained as a dumping ground for rubbish. All equipment for the storage and disposal of such material shall be kept in a clean and sanitary condition. To ensure the attractive appearance of the Subdivision, all equipment shall be kept in an enclosure and out of view from the street and adjacent or neighboring property owners. There shall be absolutely no dumping of trash or yard waste within the Outlot.

#### XXIV. ACCESSORY OR UTILITY BUILDINGS

Except to a detached garage which is prohibited under Section VIII, and subject to applicable Village of Yorkville ordinances, a single detached accessory building (not to exceed 24'x30') shall be permitted on lots in the Subdivision *provided that the design and location of the same are approved, **prior to construction**, by the Architectural Control Committee and the Village of Yorkville and/or Racine County, if required.* Said accessory building shall be substantially the same as the residence on the lot including brick, stone or other approved masonry on the front, and siding and roofing materials. A building and/or zoning permit will be required from the Village of Yorkville and/or Racine County prior to the construction of said accessory building. For purposes of this Section XXIV, a deck, patio, gazebo, pergola or other similar structure shall not be construed to be a detached accessory building, and the same may be constructed without prior approval of the Architectural Control Committee. However, the Village of Yorkville and Racine County permits, if required, are the responsibility of the lot owner.

## XXV. MODIFICATION

This declaration may be amended at any time through execution of the owners of seventy-five percent (75%) of the residential lots in the subdivision affected by these restrictive covenants of an amendment which shall take effect on the date of recording thereof in the office of the Register of Deeds for Racine County, Wisconsin. The Developer shall be exempt from any modifications made to these Restrictive Covenants for so long as the Developer retains title to any lot within the Subdivision.

**With respect to those sections listed above in Section III, no such modification(s) shall be made, however, without the prior written approval of the Village of Yorkville Village Board (upon review and recommendation of the Village of Yorkville Plan Commission), and the Land Trust. The grant of Conservation Easement and Stewardship Plan may only be modified pursuant to the terms of the easement.**

## XXVI. ENFORCEMENT OF RESTRICTIONS

If the owner of any lot subjected to these restrictive covenants shall violate or attempt to violate any of the covenants herein, it shall be lawful for the Architectural Control Committee and/or any person or persons owning or co-owning any other lot subjected to these restrictive covenants to prosecute an action at law or in equity against the person or persons violating or attempting to violate any such covenants, either to prevent him, it or them from doing so or to recover damages for such violation, or to compel him/her, it or them to replace any grades for drainage or enforce any of the covenants and restrictions herein contained.

## XXVII. EASEMENTS & PRESERVATION EASEMENTS

Easements have been reserved for various public and semi-public purposes on the recorded plat and as within separate recorded easement documents. Use of the easement areas is defined within the recorded documents and may further be defined by applicable local ordinances. Prior to construction of improvements, or disturbance of any easement area, each lot owner should carefully review all recorded easements and contact the Village for any ordinances.

A. **Entry Sign Easement.** Outlot 1 contains an area which has been designated as an "Entry Sign Easement" area, which is shown on the Plat for the Subdivision. The Homeowner's Association is required to maintain the landscaping within the easement area (for example, cutting the grass and weeding any planting beds as required by the Village). Failure to maintain the landscape areas within the Outlot pursuant to the Conservation Easement and Stewardship Plan may result in the Land Trust and/or Village of Yorkville maintaining said landscape easement and assessing the individual lot owners for any costs.

B. **Developer's Reservation and Right to Grant Easements.** Developer hereby reserves unto itself and for the Homeowner's Association the right to grant to public or semi-public utility companies or municipal entities, easements and rights-of-way over, across and through Outlot 1 for the erection, construction and maintenance of all poles, wires, pipes and conduits for the

transmission of electricity, gas, water, telephone and for other purposes, for sewers, storm water drains, gas mains, water pipes and mains and similar services, and for performing any public or quasi- public utility function that the Village of Yorkville or Racine County may require or that the Board of Directors may deem fit and proper for the improvement and benefit of the Subdivision. Such easements and rights-of-way shall be confined, to the extent possible, in underground pipes or other conduits, with the necessary rights of ingress and egress and with the rights to do whatever may be necessary to carry out the purposes for which the easement is created. Where such easements become necessary, the lot owners hereby grant to the Developer and/or the Homeowner's Association power of attorney to execute all necessary documents for the creation of such easements on the lot Owner's behalf.

C. **Easement for Construction, Access and Maintenance.** Developer hereby reserves for itself and for the Homeowner's Association a right of access over, across, and through Outlot 1 for purposes of: (i) constructing and maintaining improvements and amenities as provided for in this Declaration; (ii) making underground or above ground utility connections; and (iii) any other reasonable use consistent with this Declaration.

D. **Easement for Placement of Advertising Signs.** Developer hereby reserves for itself a right of access over, across, and through the Outlot 1 to place signs advertising the sale of Lots within the Subdivision.

E. **Easement for the Maintenance and Management of Outlot.** Developer hereby reserves for itself and for the Homeowner's Association the right to manage and maintain Outlot 1 consistent with the Conservation Easement and Stewardship Plan.

F. **Conservation Easement.** Developer hereby reserves for itself and the Homeowner's Association the right to grant and execute the Conservation Easement attached hereto as Exhibit "B".

G. **Easements to Run with the Land.** All right and easements described herein are perpetual rights and easements appurtenant to/and running with the land and shall be binding upon and inure to the benefit of: (1) the Developer; and (2) the Homeowner's Association with respect to the easements over the Outlot.

H. **Preservation Easements and Wetlands.** Lands lying within any designated Preservation Easement (secondary environmental corridor and/or wetlands as identified on the Final Plat as Outlot 1) shall be preserved and protected by prohibiting the following: Grading, filling, tiling, draining, excavating, and dredging; erecting any structures; removing or destroying any native vegetation, (except for diseased, non-indigenous species or noxious weeds as defined by local ordinances); introducing plants not native or indigenous to the natural environment; creating a mown landscape, gardening, cultivating, or depositing yard waste of any type; and grazing of domesticated animals, where applicable.

Wetland areas located within the Outlot areas must maintain a twenty-five (25) foot "no-disturbance" zone as shown on the final plat.

**The restrictions set forth in this Section may not be modified or removed without the prior written approval of both the Village of Yorkville Village Board (upon review and recommendation of the Village of Yorkville Plan Commission).**

#### XXVIII. OUTLOT & STEWARDSHIP PLAN

Due to the Conservation Subdivision Ordinance for the Village of Yorkville (Title 14 of the Code of Ordinances), Outlot 1 is subject to the Conservation Easement and Stewardship Plan for the Subdivision. *All lot purchasers are urged to review the Conservation Easement and Stewardship Plan which contains a five (5) year maintenance plan.* Purchasers are hereby notified that the amount shown to maintain and monitor the Outlot for the initial five year period has been paid by the Developer, however, any unforeseen maintenance, management, restoration or repairs and the cost thereof required under the Conservation Easement shall be the responsibility of the Homeowner's Association. The Developer has no further obligation following the initial payment to maintain and monitor the Outlot. After the initial five (5) year period, the Homeowner's Association shall be solely responsible for management, and costs thereof, for the Outlot pursuant to the Conservation Easement and Stewardship Plan. In addition, the Village of Yorkville retains the right to verify maintenance according to the Conservation Easement and Stewardship Plan. In the event that the Developer, its successors or assigns including the Homeowner's Association, fails to manage all or any portion of the Outlot in accordance with the Conservation Easement and Stewardship Plan and all applicable laws, rules, and regulations, the Land Trust and/or Village may take action pursuant to the Conservation Easement.

The Outlot will be annually assessed to ensure compliance pursuant to the Conservation Easement and the costs for such annual assessment shall be borne by the Developer and its successors and assigns for the first five (5) years as provided for in the Conservation Easement and Stewardship Plan. The Village of Yorkville requires the Conservation Easement and Stewardship Plan to remain in place in perpetuity. The Homeowner's Association will be responsible for renewing the Stewardship Plan with the initial maintenance and monitoring firm, or another reputable firm acceptable to the Village of Yorkville and the Land Trust.

Each owner of a lot in the Subdivision receives a 1/15th common ownership interest in Outlot 1. The developer and all subsequent owners warrant and represent that said outlot for assessment purposes will have no value per se, and the 1/15th interest in said outlot would be assessed with each of the buildable lots.

In the event said outlot is not assessed as above, the developer and all subsequent owners warrant and represent that each will pay 1/15th per buildable lot, of the taxes due on said outlot. In the event that these taxes are not paid, Racine County reserves the right to collect from each and every developer or subsequent owner individually for all taxes due.

In addition, the Homeowner's Association has been developed to protect and maintain said Outlot. SEE SECTION XXX FOR HOMEOWNER'S ASSOCIATION INFORMATION.

**The restrictions set forth in this section may not be modified or removed without the prior written approval of both the Village of Yorkville Village Board (upon review and recommendation of the Village of Yorkville Plan Commission) and Racine County.**

XXIX. OUTLOT, WALKING PATH, DETENTION PONDS, AND ENTRY MONUMENT MAINTENANCE

Walking Paths: The subdivision may contain a mowed walking path around the perimeter of the outlot areas for the use of the residents. The maintenance of these areas shall be the responsibility of the Association in perpetuity. Lot owners are advised to view the recorded plat for the subdivision for locations of wetland areas located within the Outlot. These wetland areas shall be maintained in perpetuity by the Association as required by the Village of Yorkville, Racine County, Wisconsin Dept. of Natural Resources, and/or the Army Corps. Of Engineers.

Residents, guests and invitees are encouraged to utilize the walking path and to observe the following requirements: 1) no motorized vehicles of any kind are allowed on the walking path or within the outlot areas, except as needed to mow grasses and repair or maintain the path or outlot areas; 2) residents walking their dogs on the walking path are required to clean up after their pets. Failure to clean up after their pets may result in the Association prohibiting pets on the walking path; and 3) stay on the path system and do not encroach into your neighbor's yards.

Detention Ponds: The subdivision contains one or more detention ponds for stormwater management purposes. These ponds may be considered "wet" or "dry" ponds and are located in the Outlot 1 area of the subdivision. Maintenance and long term monitoring and upkeep of these ponds shall be the responsibility of the Association in perpetuity. These ponds are not designed for swimming and the Association hereby forbids, in perpetuity, swimming, wading, etc. in detention ponds.

The Village has the right to inspect all ponds within the outlot. In the event the association should cease to exist or should fail to fulfill its obligations to maintain the ponds, the Village of Yorkville may, but is not obligated to, cause such maintenance to be performed and levy the costs thereof against all the properties within the subdivision.

Outlot and Easement Maintenance. In the event the Homeowner's Association should cease to exist or should fail to fulfill its obligations as stated in these Restrictive Covenants or to pay the real estate taxes assessed against its properties within the subdivision, the Village of Yorkville may cause such maintenance to be performed and levy the cost thereof as a special assessment against all of the properties within the subdivision under the provisions of Section 66.60(16) of the Wisconsin Statutes. Similarly, any real estate taxes remaining unpaid, together with any penalties and interest thereon, may be collected by the Village of Yorkville as a special assessment against all of the properties in the subdivision, or the Village of Yorkville may seek a mandatory injunction requiring the Homeowner's Association to levy and collect assessments for such purpose.



Entry Monument: At the discretion of the developer, an entry monument may be erected at the entrance of the subdivision, which, if installed, shall be located within Outlot 1, but shall be outside of any road right-of-way . Upon completion of the installation of any entry monument, the association shall maintain said monument in perpetuity including the care of any landscaping around said monument and the maintenance and repair of any entry signage.

### XXX. HOMEOWNER'S ASSOCIATION

Developer has formed the Homeowner's Association for the lot owners in the Subdivision. The purpose of the Association is to protect and maintain those areas within the development which are designated as Outlot 1, including obtaining the necessary insurance, landscape plantings, entry monument(s) and maintenance according to the Conservation Easement and Stewardship Plan, Membership in the Seno K/RLT Conservancy (holder of the Conservation Easement) and, if necessary, to maintain other easement areas as designated by the final plat.

The initial Board of Directors shall consist of:

Raymond C. Leffler	Director
TO BE NAMED	Director
TO BE NAMED	Director

The Homeowner's Association shall be managed by the Board of Directors appointed by the Developer until such time as the Homeowner's Association is turned over to the lot owners according to the By-Laws for the Homeowner's Association. Each owner has been provided with a copy of the By-Laws. The Homeowner's Association will be governed by the By-Laws as established according to the laws of the State of Wisconsin.

### XXXI. HOMEOWNER'S ASSOCIATION RESERVE FUND & ANNUAL FEE

Upon the transfer of title from the Developer to the initial purchaser, for each individual lot within the Subdivision, the purchaser shall, at the time of closing, pay a Reserve Fund Deposit to the Homeowner's Association in the amount of \$\_TBD\_ as a start-up fee. This fee shall only be due upon the initial sale of the lot from the developer and shall not apply to the re-sale of any lots. In addition, disclosure is made that the annual fee for the Homeowner's Association shall be \$\_TBD\_. The annual association fee shall cover the time period of January 1 to December 31 of any given year. At the time of closing on individual lots, the annual association fee shall be prorated on the closing statement and collected at closing. The Homeowner's Association may, from time to time, increase the annual fee after a majority vote of the lot owners at the annual Homeowner's Association meeting, or at any special meeting called for this purpose. Written notice of any meeting by the Homeowner's Association shall be mailed or delivered to the lot owners last known mailing address as recorded with the Racine County for tax purposes. Additional fees may be imposed as required and pursuant to the Conservation Easement and Stewardship Plan.

### XXXII. MAILBOX / U.S. POSTAL SERVICE DELIVERY

Purchasers of lots within the Yorkshire Highlands Subdivision are hereby notified that the United States Postal Service has designated specific locations for the placement of mailboxes which may include single, double, triple and quad mailbox placements. Purchaser acknowledges that in order to achieve a uniform appearance throughout the subdivision, Developer will provide and install mailboxes as required by the U.S. Postal Service. At time of closing, buyer shall be charged an amount of \$ TBD for the mailbox and installation. Each mailbox will carry the house number only. Additional items such as owner's names, personalization and/or decoration will not be permitted. This charge is only applicable on the sale of the lot from the Developer to the initial purchaser.

#### XXXIII RESTRICTED/PROHIBITED VEHICULAR ACCESS

Outlot 1 shall have restricted vehicular access to any streets within the subdivision except for maintenance vehicles required to maintain or repair landscaping or perform any duties required under the Conservation Easement and Stewardship Plan.

#### XXXIV. WATER & WASTEWATER SERVICES

All lots within the subdivision shall be serviced by individual private wells. All wells shall be installed by a licensed well driller and shall be registered with the State of Wisconsin as required by state law. All installation, maintenance, repair and replacement costs for each well shall be borne solely by the individual lot owner.

Each individual lot has a designated approved septic location as provided on the Final Plat. The cost for the septic system including any permitting, installation and maintenance, shall be the sole responsibility of the individual lot owner.

#### XXXV. FIREARMS / HUNTING

The discharge and/or shooting of all firearms on lots or outlots is prohibited. This prohibition shall include air and spring powered firearms including, but not limited to, BB guns, pellet guns and guns firing glass beads or paint balls.

#### XXXVI. DRAIN TILES

During the planning, engineering, platting and development of the Subdivision any existing known drain tiles were identified and repaired or re-routed as required in order to complete the Subdivision and maintain the proper storm water management. In the event a Lot Owner discovers a drain tile within their lot that is damaged during construction, it shall be the Lot Owner's responsibility to report that damage to the Village of Yorkville and to make any required repairs or re-routing of the drain tile as directed by the Village of Yorkville. Developer shall not be responsible for any drain tile(s) that may exist that was not previously disclosed to Developer. Pursuant to Chapter 28 of the Village's Code of Ordinances, the lot owner shall remain responsible for the future maintenance, operation, and replacement of all private storm/surface water facilities, including drain

tiles, whether previously mapped or subsequently discovered.

XXXVII. AGREEMENT TO TERMS

By acceptance of a conveyance of property which is subject to this declaration, the grantee, mortgagee, or transferee thereof acknowledges, accepts and agrees to each and every term, right, duty and obligation herein contained and the right of enforcement of this declaration as aforesaid.

IN WITNESS WHEREOF, TNG 27, LLC. has caused these presents to be executed this 21<sup>st</sup> day of February, 2024.

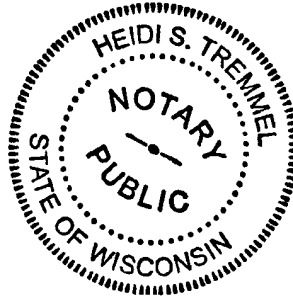
TNG 27, LLC

By: Raymond C. Leffler  
Raymond C. Leffler Member

STATE OF WISCONSIN     )  
  ) ss.  
COUNTY OF RACINE     )

Personally came before me this 21<sup>st</sup> day of February, 20 24, the above named Raymond C. Leffler, Member of TNG 27, LLC, to me known to be the person who executed the foregoing instrument as an act of the corporation, by its authority.

Heidi S. Tremmel  
\* Heidi S. Tremmel  
Notary Public - State of Wisconsin  
My Commission expires: 2/7/26



Document drafted by: Raymond C. Leffler  
Return to: 8338 Corporate Drive, Suite 300  
Racine, WI 53406

Attachments:

- Exhibit A     Legal Description
- Exhibit B     Conservation Easement
- Exhibit C     Stewardship Plan

## EXHIBIT A

### LEGAL DESCRIPTION

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15, together with a 15/15th interest in Outlot 1, Yorkshire Highlands, a recorded Subdivision being part of the Northeast 1/4 , Southeast 1/4, Southwest 1/4 and Northwest 1/4 of the Southwest 1/4 of Section 1, Town 3 North, Range 21 East, in the Village of Yorkville, Racine County, Wisconsin.

Exhibit B to the Restrictive Covenants for Yorkshire Highlands

**GRANT OF CONSERVATION EASEMENT**

This Grant of Conservation Easement (“Conservation Easement”) is made among, **TNG 27, LLC**, a Wisconsin limited liability company (“Subdivider”), **Seno K/R LT Conservancy Inc.**, a Wisconsin non-stock corporation (the “Land Trust”), and the **Village of Yorkville**, a municipal corporation in Racine County, Wisconsin (“the Village”).

**RECITALS**

A. The Subdivider is the developer of a subdivision project known as Yorkshire Highlands Subdivision located in the Village (the “Subdivision”). A copy of the Subdivision plat was recorded in the Office of the Register of Deeds of Racine County on [date], 20[xx] as document number [xxxx] and is attached hereto as **Exhibit A** the (“Plat”).

B. Outlot 1 of the recorded Plat of Yorkshire Highlands is the subject of this Conservation Easement and is legally described on **Exhibit B** attached hereto and incorporated herein, is the subject of this Conservation Easement and is referred to herein as the “Easement Area”.

C. As of the date of this Conservation Easement, the Subdivider is the fee simple title owner of the lands described in the Plat, including the Easement Area. An undivided 1/15<sup>th</sup> interest of Outlot 1 will be conveyed by the Subdivider upon the conveyance of each of the 15 lots of the Plat to the purchaser (each a “Lot Owner” and collectively the “Lot Owners”). The ownership interest of each Lot Owner in Outlot 1 shall not be separated from the lot to which such undivided interest is appurtenant and shall be deemed to be conveyed and encumbered with such lot even if such undivided interest is not expressly mentioned or described in the conveyance document or other instrument.

D. Tri City National Bank and Diversified Land Developers, LLC each hold a mortgage interest in the lands located within the Plat (“Mortgagees”) and have subordinated their respective interests in the Easement Area to the rights of the Land Trust and the Village. A copy of the subordination agreements for the Subdivision are incorporated herein by reference as **Exhibit C**.

E. The Village has recognized that the loss of open space within the Village is a great and immediate threat to preserving the rural character of the Village.

F. Section 28-125(e) of the Village Code of Ordinances requires a subdivider to preserve no less than 64% of the gross area of the conservation easement subdivision to be maintained as open space. This Easement Area comprises 69% of the Subdivision’s gross area and therefore complies with Section 28-125(e) of Village Code of Ordinances.

G. The Easement Area possesses natural open space (including valuable farmland) of great importance to the Village and its residents and the people of Racine County.

H. Subdivider is willing to grant this Conservation Easement to the Land Trust to protect environmentally sensitive areas and for the preservation of fertile farmland located within the Easement Area. Approximately 2.6 acres of the Easement Area will be maintained as native prairie in accordance with the “Yorkshire Highlands Native Vegetation Stewardship Plan” prepared by Eco-Resource Consulting, Inc. in May 2021, updated August 2021 and February 2022 (“Stewardship Plan”). The Stewardship Plan is attached hereto as **Exhibit D**. The Subdivision is delineated by Heartland Ecological Group, Inc. in May 2019.

I. The condition of the Easement Area is further documented in the Baseline Documentation Report with a last revision date of 9/22, 2022, as prepared by Julia Ela and

consisting of 13 pages, a copy of which is kept on file at the office of the Land Trust (the “Baseline Report”). The parties acknowledge that the Baseline Report is sufficient to establish an accurate representation of the condition of the Conservation Easement at the time of conveyance of this Conservation Easement and is intended to serve as an objective, but not exclusive, information baseline for monitoring compliance with the terms of this Conservation Easement. .

J. The Land Trust is qualified to be a “holder” of conservation easements pursuant to Section 700.40(2) of the Wisconsin Statutes.

K. The common law and the Uniform Conservation Easement Act, Section 700.40 of the Wisconsin Statutes, provide for the creation and conveyance of conservation easements which impose restrictions or affirmative obligations on the owners of land.

L. The Land Trust agrees, by accepting this Conservation Easement, to preserve and protect in perpetuity the conservation values of the Easement Area for the benefit of this generation and those to come.

M. Except as otherwise expressly provided in Section 5 of this Conservation Easement, all references to any party to this Conservation Easement shall include such party’s successors and assigns.

**NOW, THEREFORE**, in consideration of the foregoing recitals, which are hereby made a part of this Conservation Easement, and the mutual covenants, terms, conditions and restrictions contained herein, and other good and valuable consideration, the receipt and sufficiency of which by each of the parties is hereby acknowledged, and pursuant to the laws of the State of Wisconsin, including Section 700.40 of the Wisconsin Statutes, the parties hereto grant and agree as follows:

1. **Grant of Conservation Easement.** The Subdivider does hereby freely give, grant, assign, convey and confirm to the Land Trust, a perpetual conservation easement over the Easement Area pursuant to Section 700.40 of the Wisconsin Statutes as set forth herein. This Conservation Easement constitutes a servitude upon the land and runs with the land. The development rights conveyed by this Conservation Easement shall include all development rights, except those specifically reserved herein and those reasonably required to carry out the uses of the Easement Area permitted herein. The Conservation Easement and restrictions hereby conveyed consist of covenants on the part of the Subdivider. The Land Trust accepts this Conservation Easement in perpetuity.

2. **Purposes.** The purposes of this Conservation Easement are: (i) to retain and protect the natural open space and agricultural values of the Easement Area, assuring its availability for open space use; (ii) protecting natural resources, maintaining and enhancing air or water quality; (iii) preserving the historical, architectural, archaeological or cultural aspects of the Easement Area now and in the future for the benefit of present and future generations; and (iv) to prevent any use of the Easement Area that will significantly impair or interfere with these purposes. The Easement Area shall be used only as expressly provided in this Conservation Easement and Stewardship Plan.

3. **Prohibited Uses.** Any activity on or use of the Easement Area inconsistent with, or that adversely affects, the purposes of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:



a. No commercial, industrial, or mining activities shall be permitted, and no building, structure, or appurtenant facility or improvement shall be constructed, created, installed, erected or moved onto the Easement Area, except as specifically permitted under this Conservation Easement or the Stewardship Plan.

b. The division of the Easement Area into smaller parcels, whether through *de jure* or *de facto* subdivision, including divisions through the creation of subdivisions, condominiums, site leases, lot line adjustments or other means. This paragraph requires that the entire Easement Area remain as platted for the purposes of this Conservation Easement and prohibits any conveyance that further divides any portion of the Easement Area.

c. Use of the Easement Area for commercial or industrial purposes, including use by easement or other right of access or passage across or upon the Easement Area in conjunction with commercial activity.

d. The placement and construction of any buildings, structures, or other improvements of any kind (including, without limitation, roads and parking lots) other than those improvements shown on the Plat, or other improvements that are permitted by the Stewardship Plan or as otherwise expressly permitted by this Conservation Easement.

e. Any alteration of the surface of the land, including, without limitation, mowing, planting or landscaping, or the excavation or removal of soil, sand, gravel, rock or peat except as permitted in this Section. Pesticide and herbicide application to the crops and soil in the farming area adjacent to the prairie planting is prohibited, except for pesticide and herbicide application to the prairie plantings that are outlined in the Stewardship Plan and approved in writing by the Land Trust. However, the following alterations of the Easement

Area are permitted: (i) alterations required or permitted in the course of implementing and managing the Easement Area in accordance with the Stewardship Plan; (ii) the construction and maintenance of any storm water drainage system; (iii) the mowing and management of a grass path system, which shall not be wider than 6 feet (“Grass Path”); or (iv) the installation of any other new utility including gas, electric, cable and telephone. In no case shall mining of oil, gas, or other minerals be permitted.

f. Any use or activity that causes or is likely to cause significant soil degradation or erosion or significant pollution of any surface or subsurface waters.

g. Any use or activity, not expressly permitted in this Conservation Easement and the Stewardship Plan, that causes or is likely to cause significant degradation of any woodlands, wetlands, streams, springs, lakes, ponds, marshes, sloughs, swales, or swamps, now existing or hereinafter occurring.

h. No portion of the Easement Area shall be used for dumps, landfills, or the storage or deposit of waste or materials of any kind. Disposal of any waste or materials generated by activities permitted under this Conservation Easement shall be in accordance with applicable state law and with the approval of the Land Trust.

i. The placement, use or parking of mobile homes, trailers, trucks, automobiles, or any other motorized vehicle except as necessary for the mowing and management of the Grass Path.

j. The granting of any other easement, or entering into leases without the Land Trust’s prior written approval. Subdivider shall ensure that any lease that Subdivider

provides to the Land Trust for approval contains a provision that holds the tenant jointly and severally liable for any violations of the Stewardship Plan and covenants of this Conservation Easement.

No use shall be made of the Easement Area, and no activity thereon shall be permitted, which, in the reasonable opinion of the Land Trust, is or is likely to become inconsistent with, or adversely affect, the purposes of this Conservation Easement or the Stewardship Plan.

4. **Reserved Rights.** Except as otherwise set forth herein, the Subdivider reserves, all rights accruing from any ownership or interest Subdivider has in the Easement Area, including the right to engage in or permit or invite others to engage in all uses of the Easement Area. Notwithstanding the foregoing, Subdivider shall not exercise Subdivider's reserved rights in any manner that adversely affect or is likely to adversely affect, or is inconsistent with this Conservation Easement or the purposes of this Conservation Easement, or the Stewardship Plan.

5. **Implementation and Management of Easement Area.** In this Section 5, certain provisions are specific to TNG 27, LLC and are not intended to apply to TNG 27, LLC's successors and assigns. Therefore, all references to "TNG 27, LLC" in this Section 5 are specific to TNG 27, LLC. Where provisions are intended to apply to the successors and assigns of "TNG 27, LLC" in this Section 5, the words "successors and assigns" are included.

a. TNG 27, LLC and its successors and assigns shall be responsible for implementation of the Stewardship Plan and management of the Easement Area in accordance with the Stewardship Plan, which has been prepared by a consultant with expertise in rendering

professional ecological services. TNG 27, LLC shall ensure that the Stewardship Plan has been implemented prior to turning control of the Subdivision over to the Lot Owners and Owner's Association (defined below) pursuant to the Restrictive Covenants. To successfully implement, manage and protect the prairie planting specified in the Stewardship Plan ("Prairie Planting"), TNG 27, LLC, and its successors and assigns, shall provide that the farming operation within the Easement Area's agricultural area be done sustainably including, but not limited to, using no-till methods and cover crops as reasonably determined and required by the Stewardship Plan and Land Trust.

TNG 27, LLC shall fund the implementation of the Stewardship Plan and management of the Easement Area for the first five (5) years as detailed in the Stewardship Plan commencing upon execution of this Conservation Easement. The entirety of the funds necessary to implement the Stewardship Plan shall be deposited with the Village upon the parties executing this Conservation Easement. After the five (5) year period, TNG 27, LLC, or its successors and assigns, ) shall have implemented the Stewardship Plan, and shall request written confirmation from the Land Trust that TNG 27, LLC's responsibilities with respect to implementation of the Stewardship Plant have been satisfied. The Village shall be provided a copy of the written confirmation by the Land Trust. Upon delivery of the written confirmation from the Land Trust, the Lot Owners, which may act through the Yorkshire Highlands Homeowners' Association ("Owners' Association"), shall fund and implement the Stewardship Plan and otherwise maintain the Easement Area in accordance with this Conservation Easement. The Easement Area shall be managed in accordance with all applicable Village and County ordinances, including, but not limited to, the Village ordinances regulating weeds and those sections regulating maintenance of drainage

easements. After the initial 5 year period of the Stewardship plan, the Lot Owners, with guidance from the Land Trust, shall review and, if necessary, update the Stewardship Plan every five (5) years unless the Lot Owners and Land Trust both agree to an earlier update, and such updated Stewardship Plan shall replace, in its entirety, any and all prior Stewardship Plans. Updates to the Stewardship Plan should address the ongoing restoration and stewardship needs in the Easement Area, both for the Prairie Planting and farming area. The Lot Owners and Land Trust shall jointly approve the updated Stewardship Plan, which shall then be presented to the Village for approval and such approval shall not be unreasonably withheld, conditioned or delayed.

b. *Assessment.* Commencing one year after execution of the Conservation Easement, one of the Land Trust's trained ecological auditors, or other qualified ecological consultant hired by the Land Trust as determined by the Land Trust in the Land Trust's sole discretion, shall conduct an annual assessment of the Easement Area to ensure compliance with the Conservation Easement and Stewardship Plan. A written summary of any assessment shall be provided to the Village, TNG 27, LLC, or its successors and assigns, including the Lot Owners, and the Owners' Association. For so long as TNG 27, LLC retains any interest in the Easement Area, TNG 27, LLC shall provide the Land Trust with a list of the Lot Owners at the time of the annual assessment. The Land Trust and ecological consultant shall meet with TNG 27, LLC, or its successors and assigns, to review findings and develop plans for corrective action if needed. Written notice of any planned corrective action shall be provided to the Village.

c. *Education Component.* Pursuant to the Sec. 28-125(f)(3) of the Village's Code of Ordinances, the Land Trust shall hold an annual educational meeting with the Lot Owners after the first annual assessment is conducted. Prior to the meeting, the Land Trust shall mail to each new Lot Owner a summary of the Conservation Easement restrictions and the Stewardship Plan. The education shall be tailored to the Subdivision and include, but not be limited to, the following:

- (i) Review of long-term goals of the Stewardship Plan, progress over the past year, and plans for the coming year;
- (ii) General explanation of prohibited and allowed activities under the Conservation Easement; and
- (iii) Review of Conservation Easement violations over the past year and corrective action.

d. *Cost.* TNG 27, LLC shall pay the Land Trust a one-time fee of 1.5% of the sale price of each lot of the Plat ("Lot") due upon the closing of the sale to each Lot Owner to reimburse the Land Trust for the cost of the assessments and education performed, as well as any administrative costs incurred by the Land Trust. Each fee shall be paid to the Land Trust upon the closing of the transfer or conveyance of each Lot. The Land Trust shall use the fee to pay for administrative costs (including but not limited to education and audits) and any legal costs incurred in connection with the Conservation Easement.

e. *Failure to pay.* In case of failure to pay any of the costs as provided under this Conservation Easement, the Village may extend such costs and fees upon the tax roll as a special charge pursuant to Section 66.0627, Wis. Stats., or pursuant to any other applicable section of the statutes. TNG 27, LLC, its successors and assigns, waive right to notice and hearing. In addition, the Land Trust and the Village may commence legal action for the recovery of any such amounts owing to it hereunder.

6. **Additional Rights of Land Trust.** To accomplish the purpose of this Conservation Easement, the following additional rights are conveyed to the Land Trust and Village by this Conservation Easement:

a. To enter upon the Easement Area at reasonable times in order to monitor compliance with and otherwise enforce the terms of this Conservation Easement and Stewardship Plan; provided that such entry shall be upon prior reasonable notice to the Subdivider, and shall not unreasonably interfere with the Subdivider's activities in the Easement Area; and

b. To investigate any activity on or use of the Easement Area that is inconsistent with the purposes of this Conservation Easement or that the Land Trust reasonably believes may violate the Conservation Easement and to require, at the Subdivider's expense, the remediation of such areas or features of the Easement Area that may be damaged by any inconsistent activity, use, or violation.

c. To display signs within the Easement Area to identify the boundaries and provide notice of the Conservation Easement.

7. **Approval.** Where the approval of either or both of the Land Trust or Village is required, such approval, or denial, shall be given in writing within forty-five (45) days of receipt of written request therefore. Such request shall describe the nature, scope, design, location, timing, and any other material aspect of the proposed activity in sufficient detail to permit the Land Trust and Village to make an informed judgment as to its consistency with the purposes of this Conservation Easement and Stewardship Plan. Such approval may be withheld only upon a reasonable determination that the action as proposed would be

inconsistent with the purposes of or would otherwise violate any provision of this Conservation Easement or Stewardship Plan. Failure by the Land Trust or Village to respond to such a request within the forty-five (45) day period shall be a constructive denial of the request.

**8. Enforcement of the Restrictions.**

a. *Generally.* If the Land Trust, or the Village determines that any party is in violation of the terms of this Conservation Easement or Stewardship Plan, or that a violation is threatened, written notice of such violation or threatened violation shall be given to the alleged violating party advising such party of the nature and extent of the violation or threatened violation and demanding corrective action sufficient to cure the violation and, where the violation involves injury to the Easement Area resulting from any use or activity inconsistent with the purpose of this Conservation Easement, to restore the portion of the Easement Area so injured. If the alleged violating party fails to cure the violation within forty-five (45) days after delivery of such notice, or under circumstances where the violation cannot reasonably be cured within a forty-five (45) day period, fails to begin curing such violation within the forty-five (45) day period, or fails to continue diligently to cure such violation until finally cured, but no later than ninety (90) days from the date of the notice, the affected party may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement, to enjoin the violation by temporary or permanent injunction, ex parte if necessary, to recover any damages to which it may be entitled for violation of the terms of this Conservation Easement, or injury to any conservation values protected by this Conservation Easement, including damages for the loss of natural or scenic resources, water quality, or environmental values, and to require the restoration of the



Easement Area to the condition that existed prior to any such injury. Any damages recovered shall be applied to the cost of undertaking any corrective action on the Easement Area. The parties agree that remedies at law for any violation of the terms of this Conservation Easement are inadequate and that the Land Trust and the Village shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other relief to which it may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of proving either actual damages or the inadequacy or otherwise available legal remedies. If the Land Trust or Village determine that circumstances require immediate action to prevent or mitigate significant damage to the Easement Area or the conservation values, including natural or scenic resources, water quality, or environmental values, the Land Trust or Village may pursue remedies under this Section without prior notice to the Subdivider, its successors and assigns, or without waiting for the period provided for cure to expire.

b. *Village Enforcement Rights.* The Village has enforcement rights with respect to this Conservation Easement. The Village may, but is not obligated to, enforce the restrictions and covenants of this Conservation Easement.

c. *Costs of Enforcement.* Any costs incurred by the Land Trust or the Village in enforcing the terms of this Conservation Easement including, without limitation, costs of litigation and actual attorneys' fees, and any costs of restoration necessitated by any violation of this Conservation Easement shall be borne by the Subdivider if the final determination is in favor of the Land Trust or Village.

d. *Enforcement Discretion.* Enforcement of the terms of this Conservation Easement shall be at the discretion of the Land Trust and the Village, and any forbearance by

the Land Trust or Village to exercise their rights under this Conservation Easement in the event of any breach of any term of this Conservation Easement shall not be deemed or construed to be a waiver of any subsequent breach of the same or any other terms of this Conservation Easement or of any rights under this Conservation Easement. No delay or omission by the Land Trust or the Village in the exercise of any right or remedy upon any breach by any party to this Conservation Easement shall impair such right or remedy or be construed as a waiver.

e. *Acts Beyond Subdivider's Control.* Nothing contained in this Conservation Easement shall be construed to entitle the Land Trust or the Village to bring any action against the Subdivider for any injury to or change in the Easement Area resulting from causes beyond the Subdivider's control, such as, fire, flood, storm, and earth movement, or from any prudent action taken by the Subdivider under emergency conditions to prevent, abate or mitigate significant injury to the Easement Area resulting from such causes. In the event of acts beyond Subdivider's control, the area that is destroyed shall, to the extent practical, be restored pursuant to the Stewardship Plan at the cost of the Subdivider or with the written consent of the Village and the Land Trust (which consent will not be unreasonably withheld), the altered area may be managed for its remaining natural ecological value pursuant to a revised stewardship plan that reflects the altered condition of the land.

f. *Waiver of Certain Defenses.* The Subdivider hereby waives any defense of laches, estoppel or prescription.

g. *Appeal from Determination of Land Trust.* The Subdivider shall have the right to seek a review by the Village of any determination made by the Land Trust that a violation of this Conservation Easement has occurred, and the Land Trust hereby agrees to

participate in the administrative review process and, subject to the right of appeal, be subject to any decision made by the Village with respect to said determination. The initial review by the Village shall occur within 30 days' of the written request. Such review shall proceed in accordance with Section 2-391 et. seq. of the Code of Ordinances for the Village of Yorkville, governing administrative determinations reviews. Notwithstanding the foregoing, nothing in this Section shall prevent the Land Trust from taking immediate action in connection with an alleged violation if the Land Trust determines in its sole discretion that it is necessary to prevent or mitigate significant damage to the Easement Area.

9. **Public Access.** No right of access by the general public to any portion of the Easement Area is conveyed by this Conservation Easement.

10. **Costs, Legal Requirements, and Liabilities.** Subdivider retains all responsibilities and shall bear all costs and liabilities of any kind related to any ownership interests, operation, upkeep, and maintenance of the Easement Area, including the maintenance of adequate liability insurance coverage. Subdivider, remains solely responsible for obtaining any applicable governmental permits and approvals for any activity or use permitted by this Conservation Easement, and all such construction or other activity or use shall be undertaken in accordance with all applicable federal, state, and local laws, regulations, and requirements. Subdivider, shall keep the Easement Area free of any liens arising out of any work performed for materials furnished to, or obligations incurred by Subdivider.

11. **Taxes.** An undivided 1/15<sup>th</sup> interest in the Easement Area will be conveyed by the Subdivider upon the conveyance of each of the 15 lots of the Plat to the Lot Owners. Notwithstanding this Conservation Easement, the obligation to pay taxes on the Easement

Area shall remain with the Subdivider, with the exception of lots that have been conveyed to the Lot Owner. Subdivider shall pay before delinquency all taxes, assessments, fees and charges of whatever description levied on or assessed against the Easement Area by competent authority (collectively "Taxes"), including any Taxes imposed upon, or incurred as a result of, this Conservation Easement, and shall furnish the Land Trust and Village with satisfactory evidence of payment upon request.

12. **Representations and Warranties.** Subdivider represents and warrants that:

a. To the best of the Subdivider's knowledge, no substance defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment exists or has been released, generated, treated, stored, used, disposed of, deposited, abandoned, or transported in, on, from, or across the Easement Area;

b. To best of Subdivider's knowledge, there are not now any underground storage tanks located on the Easement Area, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed from the Easement Area in a manner not in compliance with applicable federal, state and local laws, regulations, and requirements;

c. The Easement Area is in compliance with all federal, state, and local laws, regulations, and requirements applicable to the Easement Area and its use;

d. There is no pending or, to the best of Subdivider's knowledge, threatened litigation in any way affecting, involving, or relating to the Easement Area; and

e. No civil or criminal proceedings or investigations have been instigated

or are now pending or have occurred during the time of Subdivider's ownership, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, or local law, regulation, or requirement applicable to the Easement Area or its use, nor do there exist any facts or circumstances that Subdivider might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders.

13. **Remediation.** If, at any time, there occurs, or has occurred, a release in, on or about the Easement Area of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, Subdivider agrees to take all steps necessary to assure its containment and remediation, including any cleanup that may be required, unless the release was caused by the Land Trust or the Village, in which case the Land Trust or the Village shall be responsible therefor to the extent such entity caused the release.

14. **Control.** Nothing in this Easement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability in the Land Trust or the Village to exercise physical or managerial control over the day-to-day operations of the Easement Area, or any of Subdivider's activities on the Easement Area, or otherwise to become an operator with respect to the Easement Area within the meaning of The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), or under state law.

15. **Hold Harmless.** Subdivider hereby releases and agrees to hold harmless,

indemnify, and defend the Land Trust and Village and their respective members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them (collectively "Indemnified Parties") from and against any and all liabilities, penalties, fines, charges, costs, losses, damages, expenses, causes of action, claims, demands, orders, judgments, or administrative actions, including, without limitation, reasonable attorneys' fees, arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Easement Area, regardless of cause, except to the extent due to the negligence of any of the Indemnified Parties; (2) the violation or alleged violation of, or other failure to comply with, any state, federal, or local law, regulation, or requirement, including, without limitation, CERCLA, by any person other than any of the Indemnified Parties, in any way affecting, involving, or relating to the Easement Area; (3) the presence or release in, on, from, or about the Easement Area, at any time, of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, unless caused solely by any of the Indemnified Parties; and (4) the violation or breach of the obligations, terms, conditions, representations, or warranties in this Conservation Easement by Subdivider.

16. **Subsequent Transfers.** Promptly following the transfer or conveyance of any Lot, the new Lot Owner shall provide the Land Trust with a copy of the legal conveyance instrument transferring ownership interest in the Easement Area, and the Lot Owner's address.

17. **Assignment.** A party's rights and obligations under this Conservation Easement terminate upon transfer of the party's interest, or if a partial interest is transferred such rights terminate in proportion to the interest transferred, in the Conservation Easement, except that liability for acts or omissions occurring prior to transfer shall survive transfer. The Land Trust may assign its rights and obligations under this Conservation Easement only to an organization that is authorized to acquire and hold conservation easements under Sec. 700.40, Wis. Stats., (or any successor provision then applicable) and only with the approval of the Village. As a condition of such transfer, the Land Trust shall require that the conservation purposes that this grant is intended to advance continue to be carried out. The Land Trust agrees to give written notice to Subdivider of an assignment at least twenty (20) days prior to the date of such assignment. The failure of the Land Trust to give such notice shall not affect the validity of such assignment nor shall it impair the validity of this Easement or limit its enforceability in any way. Assignment by the Village of its interest in this Conservation Easement will occur automatically to any successor entity or entities, including any municipality or municipalities established under Wisconsin law with jurisdiction over part or all of the area now occupied by the Village.

18. **Notices.** Any notice, demand, request, consent, approval, or communication that any party desires or is required to give to another party shall be in writing and either served personally or sent by certified-mail, return receipt requested, addressed as set forth below or to such other address as any party from time to time shall designate by written notice to the others:

Village:  
Village Administrator/Clerk  
Village of Yorkville  
925 15th Avenue  
Union Grove, WI 53182

Land Trust:  
Seno K/R LT Conservancy Inc.  
c/o Executive Director  
3606 Dyer Lake Rd  
Burlington, WI 53105  
Phone: 262-539-3222

Subdivider:  
TNG 27, LLC  
8338 Corporate Drive, Ste. 300  
Racine, WI 53406  
262-898-7777

Unless otherwise indicated, any notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to allow the other party to make an informed judgment as to its consistency with the purposes of this Conservation Easement.

19. **Recordation.** This Conservation Easement shall be recorded in the office of the Register of Deeds for Racine County. Any party may re-record it at any time.

20. **Extinguishment.** This Conservation Easement shall be terminated in the event of Eminent Domain, or if circumstances arise as to render the purpose of this Conservation Easement impossible to accomplish, it shall be terminated or extinguished, whether in whole or in part, only by judicial proceedings in a court of competent jurisdiction.

21. **Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Conservation Easement shall be liberally construed in favor of the agreement to effect the purpose of this Conservation Easement and the policy and purposes



of Section 700.40 of the Wisconsin Statutes. If any provision in this Conservation Easement is found to be ambiguous, an interpretation consistent with the purpose of this Conservation Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

22. **Severability.** If any provision of this Conservation Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Conservation Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

23. **Binding Effect.** This Conservation Easement shall run with the land and shall be binding on and shall inure to the benefit of the parties hereto, their heirs, successors, or assigns. It is hereby acknowledged that the covenants contained herein shall constitute a servitude upon the Easement Area and shall run with the land in perpetuity.

24. **Amendment and Modification.** This Conservation Easement and the Stewardship Plan incorporated herein by reference may be amended, modified and supplemented only by written agreement of the parties hereto or their successors or assigns, provided that any such amendment shall not diminish the goals or purposes of the Conservation Easement or affect its perpetual duration.

25. **Entire Agreement.** This Conservation Easement sets forth the entire agreement and understanding of the parties hereto in respect of the subject matter contained herein, and supersedes all prior and current agreements, promises, covenants, arrangements, communications, representations or warranties, whether oral or written, by any officers, employee or representative of any party hereto.

Exhibit C to Restrictive Covenants for Yorkshire Highlands  
**Yorkshire Highlands Native Vegetation Stewardship Plan and Proposal**  
**October 13, 2023**  
**Work Scope: October 2023- December 2025**

Prepared for:  
Newport Development Corporation  
C/O Raymond C. Leffler  
8338 Corporate Drive, Suite 300  
Mt. Pleasant, WI 53406



**ECO-RESOURCE CONSULTING, INC**

Prepared by:  
Eco-Resource Consulting, Inc.  
2554 County Road N  
Stoughton, WI 53589

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**ECO-RESOURCE CONSULTING, INC**

## **Native Vegetation Stewardship Plan for Yorkshire Highlands Residential Development**

### **1.0 OBJECTIVE**

ERC was tasked with writing a native vegetation stewardship plan and proposal for Yorkshire Highlands from 2023 to the end of the growing season in 2025. The objective of the Native Vegetation Stewardship Plan (NVSP) will be to outline the installation and maintenance of the appropriate native species and nurse crops to establish a functional wetland and three wet pond stormwater systems within two full growing seasons. At the end of each management practice outlined, a cost will be provided breaking down the amount the task will cost. A cost table will also be provided at the end of the report. The Yorkshire Highlands property is located directly east of the East Branch Root River Canal on 50th Road, Yorkville, Wisconsin (Figure 1). The wetland and stormwater systems planted with native vegetation will provide the following benefits:

- Increase stormwater infiltration and ensure hydrologic function.
- Attenuate or uptake available nutrients.
- Increase ecological value and wildlife habitat value, particularly for pollinators.
- Provide flood protection and normalize surface to groundwater interactions.

Eco-Resource Consulting, Inc. (ERC) has been tasked with developing a Native Vegetation Stewardship Plan for Outlot 1. Outlot 1 is comprised of a total of approximately 60.76 acres figured to the center line of the East Branch of the Root River Canal. Approximately 58.16 acres of this outlot will continue to be utilized for agriculture. Within Outlot 1, the Delineated Wetland Native Seeding Area total is approximately 1.6 acres and the three Wet Pond (north, middle, and south) Native Seeding Area total is approximately 1.0 acres (Figure 1). Seno K/RLT Conservancy is tasked with monitoring the agricultural areas as part of their conservation easement responsibilities. The Master Grading Plan (MGP) was developed by *Pinnacle Engineering Group*.

Due to the changing timeline and multiple variants to this project, ERC will make the following assumptions:

1. ERC Ecologists will oversee and coordinate with construction/grading contractors on wet pond grading construction.
2. The excavation/grading contractor will conduct an as-built survey to ensure that the ponds are constructed to the specifications.
3. ERC will install erosion control matting (ECM) on the side slopes of the wet ponds only, the remaining balance of the ECM required for the wet ponds will be the responsibility of the construction/grading contractor.
4. The construction of the side slopes around the wet ponds will be completed and ready for native seeding in the fall of 2023. If the slopes are not completed by the end of fall 2023, optional task 2, 3, and 4 will be implemented to ensure a successful native vegetation establishment and slope stabilization.
5. Indicated on Figure 1 as "Agricultural areas", this area will continue to be used for agricultural purposes. ERC will not be responsible for any damage done to the work areas and/or native plants that may be caused by farming activities.
6. Optional tasks 11-14 are not included in the scope of the proposal. These tasks were a request of the client to reflect price of future work after the year 2025. If the client wishes to proceed with optional tasks 11-14 with ERC, a new contract will be provided to the client after the year 2025.

## **2.0 NATIVE SEED MIXES (Task 1)**

It is important to note that a change in hydrology will occur within Outlot 1. Contributing factors to changes in hydrology include the following: increased impervious surfaces (building roads, driveways, homes, turf grass lots, etc.), changes in stormwater vectors via excavation and grading, and aging/failing clay drainage tiles that exist on site. The hydrology alteration presents a challenge for designing seed mixes that will thrive in the long term. Native seed mixes may require adjustments as project area data is collected and the Master Grading Plan is completed. The change in hydrology will also present challenges for the continued agriculture practices.

ERC Ecologists designed the native seed mixes considering the following metrics: soil conditions, hydrologic conditions, project objectives, and project budget. For the delineated wetland and the safety shelf of the wet ponds, a native wetland emergent seed mix is recommended. The side slopes of the wet ponds are recommended to have a rapidly establishing native slope stabilization mix. It is crucial to install native seed once the construction of the side slopes of the wet ponds is complete. The native plant installation is set to be installed in the fall of 2023, after completion of the side slope construction. The native species selected will offer a long seasonal range of bloom period and a wide range of successional species (early, mid, and late successional)

to provide longevity and to maximize species diversity. This will in turn maximize soil stabilization and nutrient uptake/sequestration. If the side slope construction is not completed by the end of fall 2023, ERC will install an erosion control polymer and cover crop mix to help with soil stabilization over the winter.

ERC recommends sourcing the native seed from Wisconsin nurseries to ensure that local ecotypes (within 300 miles of the site) of native plants are selected, maximizing the ecological benefit of the restoration. The seed mix tables are listed below. Following are the specifications of the designed native seed mix:

**Table 1: Delineated Wetland Emergent Native Seed – Wetland and Safety Shelf**

<b>Forbs - Wet to Wet Mesic</b>	
<b>Scientific Name</b>	<b>Common Name</b>
<i>Acorus calamus</i>	sweet flag
<i>Alisma subcordatum</i>	mud plantain
<i>Iris virginica</i>	southern blue flag iris
<i>Mimulus ringens</i>	monkey flower
<i>Sagittaria latifolia</i>	common arrowhead
<i>Sparganium eurycarpum</i>	great bur reed
<b>Graminoids</b>	
<i>Calamagrostis canadensis</i>	blue joint grass
<i>Carex hystericina</i>	porcupine sedge
<i>Juncus effusus</i>	common rush
<i>Leersia oryzoides</i>	rice cut grass
<i>Scirpus acutus</i>	hard-stem bulrush
<i>Scirpus atrovirens</i>	dark-green bulrush
<i>Scirpus cyperinus</i>	wool grass
<i>Scirpus fluviatilis</i>	river bulrush
<i>Scirpus pendulus</i>	red bulrush
<i>Scirpus validus</i>	great bulrush
<i>Spartina pectinata</i>	prairie cordgrass

**Table 2: Wet Pond Side Slopes Stabilization Native Seed Mix**  
**\*Native Seed Mix Subject to Change with Varying Hydrology\***

<b>Forbs - Wet Mesic to Dry Mesic</b>	
<b>Scientific Name</b>	<b>Common Name</b>
<i>Chamaecrista fasciculata</i>	partridge pea
<i>Echinacea purpurea</i>	purple coneflower
<i>Heliopsis helianthoides</i>	early sunflower
<i>Monarda fistulosa</i>	wild bergamot

<i>Ratibida pinnata</i>	yellow coneflower
<i>Rudbeckia hirta</i>	black-eyed Susan
<i>Rudbeckia subtomentosa</i>	sweet black-eyed Susan
<b>Graminoids - Wet Mesic to Dry Mesic</b>	
<i>Andropogon gerardii</i>	big bluestem
<i>Bouteloua curtipendula</i>	side oats grama
<i>Elymus canadensis</i>	Canada wild rye
<i>Elymus trachycaulus</i>	slender wheatgrass
<i>Elymus virginicus</i>	Virginia wild rye
<i>Panicum virgatum</i>	switchgrass
<i>Schizachyrium scoparium</i>	little bluestem
<i>Sorghastrum nutans</i>	Indian grass

*Wet Pond Side Slopes Seed Mix: \$800.00*

*Cover Crop and Polymer (If Necessary): \$250.00*

*Wetland Seed Mix: \$2,100.00*

*Task 1: Total Estimated Cost: \$3,150.00*

### **3.0 SITE PREPARATION (Task 2, 3, 4, 7)**

#### **General Herbicide Application Information**

Herbicide site preparation for native installations must be conducted with several considerations: timing of the application, height of the vegetation, and the weather. These factors are inextricably linked.

- The timing of the herbicide application is critical. A fall herbicide application will typically occur in September/October. A spring herbicide application will take place when the average vegetation reaches a height of seven to 10 inches.
- The fall herbicide application should take place on a day when no rain is forecasted. While most commercial-grade herbicides are "rain-fast" within 1-2 hours during the growing season, it takes the herbicide longer to be absorbed during the fall or spring due to the plants' slower photosynthetic rate.
- The herbicide application should take place after the morning dew has evaporated. Spraying too early in the morning may result in an ineffective treatment due to excess moisture on vegetation from morning dew.

- The wind speed during the application should be less than 10 mph. Conducting an herbicide application at higher wind speeds can result in herbicide drift, leading to an ineffective treatment and/or damage to non-target/off-site vegetation.
- Relative humidity should not exceed 85% throughout the day of the treatment.

### **Delineated Wetland Native Seeding Area – 1.6 Acres**

The existing wetland will require at least three herbicide applications prior to native seeding operations. The non-native hybrid cattail (*Typha x glauca*) that currently exists in the wetland have extensive, dense root systems which are difficult to eradicate. A custom herbicide blend should be used to ensure mortality of any non-native perennial herbaceous vegetation that is present on the site. Herbicide applications should be conducted using a UTV with a hose and gun implement or a commercial grade backpack sprayer. Due to the wetland hydrology, this will require a WDNR Aquatic Plant Management Permit.

The first application should take place in June/July 2024. The second herbicide application should take place in July/August 2024. The third application should take place in September of 2024. These herbicide applications will allow the seeded native wetland species an opportunity to establish in the wetland following a dormant (fall/winter) seeding in 2024/2025. Depending on herbicide intake/success, an additional fourth herbicide application in May/June of 2025 will take place. If the fourth herbicide application is necessary, the native seed installation will take place in the spring of 2025, at least two weeks following the herbicide application.

*Task 7 (Wetland Herbicide Preparation): \$8,000.00 (\$2,000.00 per event)*

### **Wet Pond Side Slopes and Safety Shelves Native Seeding Areas – 1.0 Acres**

The wet ponds are expected to be completed and ready for native seed installation in the fall of 2023. If side slope construction is completed on time, the native seed installation will be installed as soon as possible. Before the native seed installation, ERC will test soil compaction on all three side slopes. If the soil is deemed to be compacted, the slope must be prepped before installation. A Harley rake that is mounted on front of a skid steer will be utilized to conduct the soil preparation. Native seeding installation will follow immediately after the soil has been prepared. If the side slopes are not completed by the end of fall 2023, ERC will install polymer and cover crops to help with soil stabilization. ERC highly recommends the cover crops to be seeded with certified weed free annual oats and Canada wildrye (*Elymus canadensis*). Canada wildrye (CWR)



is a deep-rooted native cool season grass that when combined with an annual cover crop, will increase soil stabilization, and provide the rapid vegetative cover necessary to stabilize the site. CWR should be procured from a trusted and vetted native seed vendor with a high PLS (Pure Live Seed) rating. If the installation of polymer and cover crops takes place, the side slopes must be prepared properly for a successful native seed installation. The cover crops must be mowed as low to the ground as possible, avoiding thatching if possible. After the mowing completion, a Harley rake attachment will be utilized to work-up and prepare the soil for native seed installation.

*Task 2 (Cover Crop and Polymer Installation – 2023) If Necessary: \$900.00*

*Task 3 (Site Preparation – Mowing 2024) If Necessary: \$1,550.00*

*Task 4 (Soil Preparation – 2023/2024) If Necessary: \$1,600.00*

## **4.0 INSTALLATION (Task 5 and 8)**

### **Wet-Mesic Native Seed - Stormwater Basin Side Slopes and Safety Shelf**

Installation of the cover crop and native seed will be installed by ERC in conjunction with the stormwater wet pond construction. Due to the slope of the seeding area within the wet pond, the native seed will be broadcasted using a portable hand broadcaster in the fall/winter (dormant seeding) following the completion of the Master Grading Plan. If the construction on the side slopes is not completed by the end of fall 2023, the native seed installation will be conducted in the spring of 2024. All outlined tasks stated above in the soil preparation section, must be followed in order to continue forward with the native seed installation.

### **Erosion Control Product Installation**

Immediately after the native seed has been broadcasted, a weighted roller and ATV will be utilized to ensure proper seed to soil contact. Following the seeding, erosion control matting will be rolled out over the native seed. ERC recommends using double net straw erosion control matting. This is classified as a “Type I Class B” erosion control mat product. Erosion control product must be installed per the manufacturer’s specifications. The most critical aspect of proper erosion control mat placement is the soil surface preparation and the stapling alignment/spacing. ERC will be using six-inch metal staples to ensure a successful erosion control matting installation.

*Task 5 (Native Installation on Wet Ponds & Erosion Control Mat Installation – 2023/2024): \$11,200.00*

### **Delineated Wetland Emergent Native Seed – Delineated Wetland**

Due to the hydrology within the delineated wetland, the native seed should be hand broadcasted using a portable hand broadcaster in the fall/winter (dormant seeding) following the completion of the herbicide operations described in Section 3.0.

*Task 8 (Native Seed Installation – Wetland – 2024/2025): \$900.00*

### **5.0 FIRST YEAR MAINTENANCE (Task 6 and 10)**

Native prairies and native wetlands have different operations when conducting maintenance after native seed installation. Due to the water levels in a wetland, spot herbicide treatments will be conducted to control any invasive/non-native species that are actively growing after the native seed installation. Glove-of-death and commercial grade backpack sprayers will be utilized for a more controlled herbicide application.

A new prairie native seeding maintenance is completed by several mowing events in the first growing season, depending upon precipitation frequency and soil moisture levels. Nothing is more critical to the long-term success of a native seeding than first year mowing maintenance. First year mowing is critical for two primary reasons: to reduce *weed competition* and to ensure *sunlight infiltration* to native seedlings.

#### **Maintenance Mowing Specifications**

First year mowing must be conducted with three considerations: timing of mowing, frequency of mowing, and height of mowing. These three factors are inextricably linked.

- Each time the *average height* of the vegetation in the new native planting reaches twelve (12) to fourteen (14) inches, it must be mowed down to a height of six (6) to eight (8) inches. Ideally, no more than six (6) inches of total vegetative growth is cut during any single mowing event, and the plantings are NEVER mowed lower than six (6) inches from ground level during the first season.

- Should the average height of the planting exceed fourteen (14) inches when it is cut, mowing must be completed in multiple stages, with a total cutting depth NEVER exceeding six (6) inches for any single pass to avoid thatch build-up.
- If more than six (6) inches (on average) of vegetation is cut during any single mowing event, the density of thatch (cut vegetation remaining on the ground) will negatively impact the young native seedlings by shading them out and reducing light infiltration during a critical stage of development. This thatch must be removed to prevent stunting and/or mortality in low-growing native seedlings.

The timing, frequency, and total effort (hours) expended for first year mowing maintenance will primarily be a function of precipitation. More frequent rainfall events will result in the need for more frequent mowing events. Considering average precipitation in Wisconsin, three mowing events may have to be conducted in the first season.

### **Non-Target Plant Competition**

In the context of a new native prairie planting, a non-target species (weed) is any plant that adversely effects the germination, development, and/or establishment of native species that were components of the installed native seed mixes. Weeds can be native or non-native, annual, biennial, or perennial plant species that were *not* a component of the native seed mixes installed on the units.

The first two seasons are a critical period with a new native planting, as native plants develop very extensive root systems slowly over the first several growing seasons. In subsequent seasons, certain weed species will present less of a concern to the overall vigor, quality, and longevity of a native prairie re-construction. Annual weeds, for example, are typically less of a risk to the native planting than biennial or perennial species.

Regardless of cropping history, or the extent of site preparation and weed control conducted on the planting units prior to seeding, non-target (weeds) species can establish through two natural dispersion processes: *seed bank expression* and *transport vectors*. These natural functions serve to fill the niche of a non-vegetated, exposed soil surface area.

### **Seed Bank Expression**

Non-target species can become established through seed bank expression. The “seed bank” is the stored, viable seed component that exists within the soil produced from earlier generations

of these plants. Typically, perennial species comprise the most significant portions of the seed bank as their seeds remain viable in the seed bank much longer than annual or biennial species. Even the slightest soil surface scarification or disturbance can bring these viable seeds close enough to the soil surface to obtain enough moisture and heat (the two inputs required for seed germination) to germinate and become established.

### **Transport Vectors**

Annual (and some biennial and perennial) weed species are introduced into a new native planting through several environmental vectors. These can include wind, water, and wildlife. Well-managed mowing maintenance during the first two seasons of a new native seeding prevent weeds from proliferating in the planting area by cutting them before they produce seed. Repeated mowing forces weeds to continually expend their energy reserves toward seed production. These energy reserves are eventually exhausted as the growing season comes to an end, if continuously mowed throughout the season.

### **Sunlight Infiltration**

Native seedlings grow down before they grow up. Established native prairie plants have very complex root systems that can exceed fifteen (15) feet in depth below the soil surface. This root development occurs over the first three to ten years after seeding, depending upon the growth rates of the individual species. During the first and second years of development, top-growth (stems, leaves, and reproductive structures) is limited for most native plants. Some native plants only grow a few inches tall during the first growing season.

Due to this delayed top-growth, stunting or mortality can result if the natives are shaded out by competing weeds in close proximity, or by cut thatch (to be discussed in the following section) left to lie on the surface following poorly-timed cutting. Late blooming species (warm season grasses for example) may not germinate at all if light cannot reach the soil surface to warm the soil and trigger seed germination.

*Task 6 (Wet Pond Maintenance – 2024): \$4,200.00 (\$1,400.00 per event)*

*Task 10 (Wetland Maintenance – 2025): \$4,500.00 (\$1,500.00 per event)*

## 6.0 SECOND YEAR MAINTENANCE (Task 9)

### Maintenance Mowing Specifications

Due to the length of the contract and timing of the seeding events, the wetland will only have one year of maintenance after seed installation. However, ERC recommends at least two years of maintenance after the installation of native seed. The native prairie on the side slopes of the wet pond will be able to receive two years of maintenance. Provided the first-year mowing maintenance was well-managed, the second-year mowing maintenance will require less effort and resources. In the second season of a new native seeding, the vegetation should be allowed to put on more top growth. During this time, a mower must be utilized that can be raised to a height of twelve (12) to fourteen (14) inches from ground level.

- Each time the *average height* of the vegetation in the new native planting reaches twenty-four (24) to twenty-six (26) inches, it must be mowed to a height of twelve (12) to fourteen (14) inches. Ideally, no more than twelve (12) inches of total vegetative growth is cut during any single mowing event, and the plantings are NEVER mowed lower than twelve (12) inches from ground level during the second season.
- Should the average height of the planting exceed twenty-six (26) inches when it is cut, mowing must be completed in multiple stages, with a total cutting depth NEVER exceeding twelve (12) inches to avoid build-up of thatch.
- If more than twelve (12) inches (on average) of vegetation is cut during any single mowing event, the density of thatch (cut vegetation remaining on the ground) will negatively impact the young native seedlings by shading them out and reducing light infiltration during a critical stage of development. This thatch must be removed to prevent stunting and/or mortality in low-growing native seedlings.

The timing, frequency, and total effort (hours) expended for second year mowing maintenance will primarily be a function of precipitation. More frequent rainfall events will result in the need for more frequent mowing events. Considering average precipitation, two to four mowing events will have to be conducted in the second season.

### Non-Target Vegetation

Some non-target species (weeds) are also considered “invasive species”. Within the restoration community, any non-native plant is considered an issue that may need to be dealt with.

Certainly, some invasive species represent a greater threat to native prairie restorations than others. This justifies the need for a skilled restoration ecologist and/or botanist to monitor a new native planting. Ecologists can make positive species identifications at any stage of vegetative growth. If this information is relayed quickly and reliably, land managers can eradicate threatening invasive species before they become dominant in areas of the restoration and degrade the functionality and floristic quality of the site.

It is normal for some invasive species to become representative in the second season of a newly seeded prairie reconstruction. Many of the invasive species that become established in young native plantings are biennials such as yellow or white sweet clover (*Melilotus sp.*), common burdock (*Arctium minus*), Queen Anne's lace (*Daucus carota*), wild parsnip (*Pastinaca sativa*), and biennial thistles (*Cirsium sp.*). Biennial species present as ground-form "rosettes" in the first year and produce large volumes of highly viable seed in the second year. For this reason, well-managed second year mowing to prevent biennial weed seed production can be a critical factor affecting the quality of the restored prairie.

Invasive species that pose the largest threat to new native restorations are true perennials, like the reestablished native plants themselves. Representative perennial invasive species may be Canada thistle (*Cirsium arvense*), reed canary grass (*Phalaris arundinacea*), and crown vetch (*Securigera varia*). These perennial invasive species propagate vegetatively (below the soil surface) and through seed production. For these reasons, they are difficult to control with mowing alone, regardless of the timing of the mowing.

Another significant threat to a young native prairie restoration can come from opportunistic, early-successional native plants. An example of this type of species is Canada goldenrod (*Solidago canadensis*). Canada goldenrod, though a native plant to the Midwest, can threaten the floristic quality and diversity of a native prairie reconstruction. This aggressive plant can displace more conservative, higher quality native plants, particularly if not controlled in the first two seasons.

*Task 9 (Wet Pond Maintenance – 2025): \$4,200.00 (\$1,400.00 per event)*

## **7.0 LONG TERM MANAGEMENT**

### **Prescribed Fire**

The most important tool for long-term management of a prairie restoration is the judicious use of prescribed fire. Native prairie plants evolved with fire and require it to reach their full

potential. In addition, invasive woody and herbaceous plants are typically not fire-dependent species and prescribed burns will continue to set back succession and maintain a healthy native graminoid and wildflower plant community.

ERC recommends burning native grasslands (prairie restorations) every three to five years, depending upon the density and types of woody species that encroach into the grassland area and the objective of the landowner. Burns can be conducted in spring (April/May) or fall (October/November). Continued spring burns can encourage native warm season grass growth and late spring burns can reduce vigor of native forbs (wildflowers). Fall burns tend to encourage the recovery and vigor of native forbs over the native grasses the following growing season.

Prescribed fire operations should be planned and executed by experienced personnel or trained professionals. ERC recommends engaging Prescribed Fire Contractors who are equipped, trained, and insured to plan and execute prescribed prairie burns.

Mowing established stands of native vegetation can be conducted if the use of prescribed fire is not practical. However, mowing established stands of native grasses/forbs can negatively impact the native vegetation if cut thatch is left on the ground. Thatch must be removed or the cooling effect from the shade this thatch creates will create soil conditions conducive to non-native/invasive cool season grasses and invasive broadleaved weeds.

## **8.0 MONITORING (Task 15)**

ERC recommends conducting monitoring and reporting on the new native plantings during the growing seasons following the installation. A qualitative meander survey should be conducted to monitor the vegetation density and species richness throughout the project. Monitoring reports will outline recommendations for adjustments in management strategies in order to accelerate native plant establishment. This is the foundation of Adaptive Management. Additional monitoring events will ensure native plantings will remain vibrant and healthy and can help inform any shifts in management that should be completed to prevent invasive species dominating the plantings. Throughout the length of the contract, ERC will periodically conduct vegetation monitoring to ensure the best management practices are taking place and native vegetation is establishing properly.

The goals of a perennial prairie restoration are to have at least 50% native species density and no areas greater than a square meter that are un-vegetated after the first growing season. Goals of the second growing season will be a native species density of 65% with no un-vegetated areas.

Following the monitoring events, supplemental and/or interseeding may be recommended as a continued management technique.

*Task 15 (Project Management): \$3,800.00*

## **9.0 FIVE YEAR SITE PREPARATION, INSTALLATION, MAINTENANCE AND MONITORING PLAN**

### **Year 1 (2023)**

October/November/December: Soil Preparation, Dormant Broadcast Native Seed Installation, and Erosion Control Installation (If Side Slopes are Ready) – Wet Ponds (North, Middle, South)

November/December: Cover Crop and Polymer Installation (If Side Slope Construction is Not Completed)

### **Year 2 (2024)**

May: Maintenance Mow on Side Slopes (if Cover Crop was Installed)

May/June: Soil Preparation and Broadcast Native Seed Installation on Side Slopes (if not Installed in Fall 2023)

May/June: First Herbicide Application – Wetland

June/July/August/September: Maintenance Mowing (3 events) – Wet ponds

July/August: Second Herbicide Application – Wetland

August/September: Third Herbicide Application – Wetland

November/December: Dormant Broadcast Native Seed Installation (If ready) – Wetland

### **Year 3 (2025)**

May/June: Fourth Herbicide Application – Wetland (If Necessary)



May/June: Broadcast Native Seed Installation (If Not Installed in Fall 2024) – Wetland

June/July/August/September: Maintenance (3 events) – All Areas

#### **Year 4 (2026)**

*(Optional)* June/July/August/September: Wetland Maintenance (3 events) – Wetland

*(Optional)* July/August: Monitoring Event – All Areas

#### **Year 5 (2027)**

*(Optional)* April/May: Prescribed Fire (beneficial to native warm season grasses and forbs)

*(Optional)* October/November: Prescribed Fire (beneficial to native warm season forbs)

## 10.0 ESTIMATED COSTS

<u>Task Number</u>	<u>Task Description</u>	<u>Task Total</u>
1	Native Seed Mixes and Polymer	\$3,150.00
2	Cover Crop and Polymer Installation – 2023 (If Necessary)	\$900.00
3	Site Preparation 2024 (If Necessary)	\$1,550.00
4	Soil Preparation 2023/2024 (If Necessary)	\$1,600.00
5	Native Installation on Wet Ponds & Erosion Control Matting Installation 2023/2024	\$11,200.00
6	Wet Pond Maintenance - 2024	\$4,200.00
7	Herbicide Site Preparation – Wetland – 2024	\$8,000.00
8	Native Seed Install – Wetland – 2024/2025	\$900.00
9	Wet Pond Maintenance – 2025	\$4,200.00
10	Wetland Maintenance – 2025	\$4,500.00
11	(Optional) Wetland Maintenance 2026	\$4,500.00
12	(Optional) Monitoring Event	\$2,100.00
13	(Optional) Prescribe Fire	\$2,500.00
14	(Optional) Prescribe Fire	\$2,500.00
15	Project Management	\$3,800.00
	Sub-total	\$55,600.00
	Racine County Sales Tax 5.0% <i>*Task 1-14 only</i>	\$2,590.00
	<b>Total</b>	<b>\$58,190.00</b>
	<i>*Task 11-14 are optional tasks. See assumption six (6) on page four (4) for details.</i>	

11.0 FIGURE 1



**Disclaimer**

Due to product price volatility associated with the current economic state, additional charges may apply to product. If the price for the product would increase the proposed cost of a specific task, the client would be responsible for the additional cost for the product.

These figures are estimates and invoice on a Net-15 basis. The final invoice will reflect only actual unit inputs for consulting hours, labor, equipment, product(s) and mobilization. This proposal is valid for 15 days. ERC appreciates the opportunity to provide you with this proposal for ecological services. If you have any questions or comments regarding this proposal, please contact the undersigned at (608) 877-9372. ERC will initiate this project upon authorization to proceed.

Respectfully submitted,

**ECO-RESOURCE CONSULTING, INC.**

Curt Belke  
Staff Ecologist

Stephen Hjort  
President/Senior Biologist

**6. Mediation**

If any dispute arises out of or relates to this contract, or the breach thereof, and if said dispute cannot be settled through direct discussions, the parties agree to first endeavor to settle the dispute in an amicable manner by mediation under the Construction Industry Mediation Rules of the American Arbitration Association before having recourse to a judicial forum. No written or oral representation made during the course of any mediation shall be deemed a party admission.

**7. Governing Law**

This Contract and the legal relations of the parties shall be governed by the laws of the State of Wisconsin applicable to agreements negotiated, executed, delivered, and fully performed in such state.

**8. Expiration**

This proposal is valid for fifteen (15) days from the date listed on the proposal and services agreement.

IN WITNESS WHEREOF, the parties have caused this Services Agreement to be executed on the day and year first set forth above.

**9. Disclaimer**

Due to product price volatility associated with the current economic state, additional charges may apply to product. If the price for the product would increase the proposed cost of a specific task, the client would be responsible for the additional cost for the product.

**Authorization to Proceed**

TNG 27, LLC

Raymond C. Leffler

BY: Raymond C. Leffler

TITLE: 11/11/13-1

DATE: 12-13-2023

Eco-Resource Consulting, Inc.

BY: Stephen J. Hjort

TITLE: President/Senior Biologist

DATE: October 13, 2023

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